

SUMMARY REPORT OF INVESTIGATION**I. EXECUTIVE SUMMARY**

Date of Incident:	September 17, 2017
Time of Incident:	3:45 am
Location of Incident:	XXX W. Lexington Street, Chicago, IL 60612 (XXX).
Date of COPA Notification:	September 18, 2017
Time of COPA Notification:	6:43 pm

On September 17, 2017, the complainant, Subject 1, was seated in an unlocked City of Chicago Van (“the Van”) in the parking lot of the XXX waiting for his work day to begin. Sergeant A and Officers A and B¹ (collectively “the Officers”) entered the parking lot to investigate a potential in-progress burglary of the Van. The next day Subject 1 provided a statement to COPA and alleged the Officers pointed firearms at him.

The Officers were detailed to Unit XXX. Additionally, the CPD Bureau of Internal Affairs (BIA) relieved Officer B of his police powers on July 18, 2015.

II. INVOLVED PARTIES

Involved Sergeant #1:	Sergeant A Star #XXXX / Employee ID#XXXXXX Appointed XXX, 1994 Unit XXX Born XXX, 1967 Male / White
Involved Officer #1:	Police Officer A Star #XXXXXX / Employee ID#XXXX Appointed XXX, 1999 Unit XXX Born XXX, 1999 Male / Asian
Involved Officer #2:	Police Officer B Employee ID# XXXXXX Unit XXX

¹ Officer B resigned on January 3, 2018. Att. 50. On September 17, 2017, Officer B had been relieved of his police powers due to an unrelated incident. Among other restrictions, officers who have been relieved of their police powers are not permitted to carry a badge or a firearm and are “not to exercise the power of arrest or any other police power bestowed upon [them] by virtue of [their] employment as a sworn member of the Chicago Police Department.” Att. 27, page 2.

Subject #1:	Male / White Subject 1 Born XXX, 1952 Male / Hispanic
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III. ALLEGATIONS

Officer	Allegation	Finding
Sergeant A	1. Pointed a firearm at Subject 1 without justification, in violation of Rule 38. 2. Allowed Officer B to exercise/engage in police powers/action despite receiving notice that Officer B was relieved of his police powers, in violation of Rule 3.	Unfounded Not Sustained
Officer A	1. Pointed a firearm at Subject 1 without justification, in violation of Rule 38.	Unfounded
Officer B	1. Pointed a firearm at Subject 1 without justification, in violation of Rule 38. 2. Engaged in police action despite being relieved of police powers, in violation of Rule 6.	Unfounded Not Sustained

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 3: Prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals.
2. Rule 6: Prohibits the disobedience of an order or directive, whether written or oral.
3. Rule 38: Prohibits the unlawful or unnecessary display of a weapon.

V. INVESTIGATION²

a. Interviews³

In a statement to COPA⁴ on September 18, 2017, **Subject 1**, stated that he arrived two hours prior to the start of his shift as a supervisor at XXX, and decided to enter the Van to have

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Officer B was not interviewed for this investigation due to his resignation from the Department.

⁴ Att. 3.

cup of coffee.⁵ Subject 1 explained that he was aware the Van was unlocked because he saw one of its doors open on September 16, 2017, and closed it. However, he did not lock it. Subject 1 acknowledged that he was not wearing his XXX uniform or his City of Chicago Identification Card when he entered the Van. Once he was seated in the Van, Subject 1 observed the Officers approach the Van and point firearms at him. Subject 1 stated that he identified himself to the officers as a XXX employee and they advised him to check in with the security guard if he was going to sit in the Van.

In a **statement to COPA**⁶ on October 27, 2017, **Civilian 1**, stated that she was on her lunch break from the XXX when she observed a male (Subject 1) enter the Van in the parking lot. Civilian 1 did not recognize Subject 1 and notified another supervisor (Civilian 2) of her observations. Civilian 2 said that she would inform some of the officers who were assigned to the Call Center. Shortly after speaking to Civilian 2, Civilian 1 observed the Officers⁷ exit the building and approach the Van. Civilian 1 recalled observing Officer A looking into the Van while aiming a firearm towards the Van and stating: "show me your hands." Civilian 1 could not see Sergeant A or Officer B because they were on the far side of the Van. Civilian 1 observed the rear sliding door of the Van open, Subject 1 exited, and Officer A holstered his weapon.

In a **statement to COPA**⁸ on January 23, 2018, **Accused Officer A**, stated that Sergeant A approached him and instructed him to assist in investigating a potential burglary of the Van. Officer A followed Sergeant A out of the building and approached the Van. Officer B had been outside with Officer A at the time and followed him and Sergeant A to the Van. Once at the Van, Officer A drew his firearm and ordered the occupant (Subject 1) to exit. Once Subject 1 exited, Officer A recognized him and holstered his weapon. Officer A was certain Officer B did not point a firearm at the Van because Officer B did not possess a firearm. Officer A knew Officer B did not have a firearm because Officer B was relieved of his police powers and was not permitted to possess a firearm while on duty. Officer A also explained he believed Sergeant A was aware that Officer B had been relieved of police powers.

In a **statement to COPA**⁹ on January 25, 2018, **Accused Sergeant A**, stated that after being informed of a possible in-progress burglary occurring in the parking lot, he approached Officer A and instructed him to assist in investigating the possible crime. As Officer A and Sergeant A exited the building, Sergeant A observed Officer B following them. Once in the parking lot, Sergeant A handed a Department radio to Officer B, drew his firearm, and proceeded to the rear of the Van. Once at the rear of the Van, Sergeant A heard Officer A order the occupant (Subject 1) to exit, and observed Subject 1 open the rear sliding door. Once Subject 1 was identified, Sergeant A holstered his firearm. Sergeant A advised Subject 1 that he notify the building's security if he was going to enter a van in the parking lot.

⁵ Subject 1 stated that he wanted to enjoy the fresh air by drinking his coffee in the van, but acknowledged that the doors and windows were all shut.

⁶ Att. 17.

⁷ Civilian 1 identified Sergeant A and Officer A by last name but only knew Officer B's first name.

⁸ Att. 43.

⁹ Att. 47.

Additionally, Sergeant A admitted he was aware that Officer B had been relieved of his police powers and was not permitted to take police action. Despite initially equating police powers to carrying a firearm and star, Sergeant A eventually acknowledged that assisting in investigating a potential in-progress burglary would be police action. Sergeant A was clear that he only ordered Officer A to assist him. Further, Sergeant A stated that at no time did he direct or observe Officer B utilize any police powers, despite Officer B's presence in the parking lot and possession of a Department radio during the in-progress burglary investigation.

b. Digital Evidence

The **XXX Parking Lot Surveillance Footage**¹⁰ is comprehensive and details the entire encounter between Subject 1 in the Officers. The footage depicts Sergeant A passing a Department radio to Officer B. Additionally, the footage is clear that, while Sergeant A and Officer A both have firearms in their hands, none of the Officers point a firearm at the Van and that Officer B never draws a firearm at all.

c. Documentary Evidence

A **Response to a Duty Status Request**¹¹ from BIA details that Officer B was placed on restricted duty and relieved of his police powers on XXX, 2015. The response contained a copy of a Notification of Duty Restrictions issued to and signed by Officer B. Finally, the response detailed that neither Sergeant A nor Officer A were placed on restricted duty status by BIA.

VI. ANALYSIS

COPA recommends a finding of **Unfounded** for the allegations that the Officers pointed a firearm at Subject 1 without justification.

Here, the comprehensive surveillance footage is clear that Officer B never had a firearm in his hands; therefore, COPA finds he could not have pointed a firearm at Subject 1. Additionally, the footage is clear that neither Sergeant A nor Officer A pointed a firearm at Subject 1 or the Van; therefore, COPA finds that Sergeant A and Officer A did not point a firearm at Subject 1. Further, even if Sergeant A or Officer A had pointed a firearm at Subject 1, their actions would have been a proper tactical response due to the safety concerns inherent in investigating an in-progress burglary of the Van at 3:45 am by an unidentified person in a parking lot. Additionally, that immediately upon identifying and learning that Subject 1 was not a threat both holstered their firearms.

COPA recommends a finding of **Not Sustained** for the allegation that Sergeant A allowed Officer B to exercise/engage in police powers/action despite receiving notice that Officer B was relieved of his police powers. Despite Sergeant A's knowledge that Officer B had been relieved of police powers, there is insufficient evidence to support a finding that Sergeant A was aware that Officer B more likely than not engaged in a police action. Both Sergeant A and Officer A were

¹⁰ Atts. 7, 10.

¹¹ Att. 27.

clear that Sergeant A never instructed Officer B to enter the parking lot, nor was Officer B ever in possession of a firearm. Additionally, COPA was unable to obtain Officer B's version of events. Finally, Sergeant A was insistent that Officer B never engaged in a police action. Based on the evidence, COPA is unable to determine if Sergeant A reasonably believed Officer B's actions constituted a police action or if he was merely an observer.

COPA recommends a finding of **Not Sustained** for the allegation that Officer B engaged in police action despite being relieved of police powers. While the evidence shows that Officer B followed Sergeant A and Officer A when they investigated an in-progress burglary; the lack of Officer B's statement prevents COPA from making a determination if his actions constituted a police action.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Sergeant A	<ol style="list-style-type: none">Pointed a firearm at Subject 1 without justification, in violation of Rule 38.Allowed Officer B to exercise/engage in police powers/action despite receiving notice that Officer B was relieved of his police powers, in violation of Rule 3.	Unfounded Not Sustained
Officer A	<ol style="list-style-type: none">Pointed a firearm at Subject 1 without justification, in violation of Rule 38.	Unfounded
Officer B	<ol style="list-style-type: none">Pointed a firearm at Subject 1 without justification, in violation of Rule 38.Engaged in police action despite being relieved of police powers, in violation of Rule 6.	Unfounded Not Sustained

Approved:

Acting Deputy Chief Administrator – Chief Investigator Date
A

Acting Deputy Chief Administrator – Chief Investigator

Appendix A

Assigned Investigative Staff

Squad:	XX
Investigator:	Investigator A
Supervising Investigator:	Supervising Investigator A
Acting Deputy Chief Administrator:	Acting Deputy Chief Administrator – Chief Investigator A